

REMARKS

I. Status Summary

Claims 38-45 are pending in the present application. As a result of a Restriction Requirement, claims 1-37 were withdrawn from consideration and subsequently canceled.

Applicants kindly acknowledge the withdrawal by the United States Patent and Trademark Office (hereinafter "the Patent Office") of the several bases of objection to the specification presented in the previous Official Action, as well as the withdrawal of several of the rejections from the previous Official Action.

Applicants also kindly acknowledge that the Patent Office indicated that claims 41-45 (which are drawn to a method of characterizing resistance to soybean sudden death syndrome in a soybean plant) have been allowed.

The Patent Office has objected to the specification, asserting that the term "Botran" should be capitalized and accompanied by the generic terminology. The Patent Office further asserts that amending the specification to introduce the generic terminology for Botran would provide antecedent support for the limitation "2,6-dichloro-4-nitroaniline" recited in claim 44.

The Patent Office has rejected claims 38-40 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. More particularly, the Patent Office contends that the terms "about" and "or less" recited in claims 38 and 39 are not supported by the specification. The Patent Office asserts that because only three specific inoculum densities are described at page 81, second paragraph, of the specification, there does not appear to be sufficient support for the claimed ranges of inoculum as recited in the cited claims.

Reconsideration of the application as amended and based on the remarks set forth herein below is respectfully requested.

II. Response to Objection to Specification

The Patent Office has objected to the specification, asserting that the term "Botran" should be capitalized and accompanied by the generic terminology. The

Patent Office further asserts that amending the specification to introduce the generic terminology for Botran would provide antecedent support for the limitation "2,6-dichloro-4-nitroaniline" recited in claim 44.

The specification has been so amended. No new matter has been added. Withdrawal of the objection to the specification is respectfully requested.

III. Response to Claim Rejections Under 35 U.S.C. § 112, First Paragraph

The Patent Office has rejected claims 38-40 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. More particularly, the Patent Office contends that the terms "about" and "or less" recited in claims 38 and 39 are not supported by the specification. The Patent Office asserts that because only three specific inoculum densities are described at page 81, second paragraph, of the specification, there does not appear to be sufficient support for the claimed ranges of inoculum as recited in the cited claims. This rejection is respectfully traversed.

Support for the claim can be found throughout the specification as filed, including particularly at page 84, lines 1-5 ("inoculum densities of less than 3×10^3 spore per cm^3 of soil"). Additional support can be found in claim 39 as originally filed ("an inoculum density of about 3×10^3 spore/ cm^3 soil"). Thus, no new matter is believed to have been added by any of the amendments to the claims.

Summarily, then, applicants respectfully request that the rejection of claims 38-40 under 35 U.S.C. § 112, first paragraph, be withdrawn, and the claims allowed at this time.

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully

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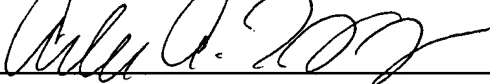
requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

DEPOSIT ACCOUNT

The Commissioner is hereby authorized to charge any fees associated with the filing of this correspondence to Deposit Account No. 50-0426.

Respectfully submitted,

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